

## CHAPTER 8C

## IOWA CELL SITING ACT

Chapter repealed July 1, 2020; see §8C.9

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**8C.1 Short title.**

[This chapter](#) shall be known and may be cited as the “*Iowa Cell Siting Act*”.

[2015 Acts, ch 120, §1, 10](#)

NEW section

**8C.2 Definitions.**

For the purposes of [this chapter](#), unless the context otherwise requires:

1. “*Applicant*” means any person engaged in the business of providing wireless telecommunications services or the wireless telecommunications infrastructure required for wireless telecommunications services and who submits an application.

2. “*Application*” means a request submitted by an applicant to an authority to construct a new tower, for the initial placement of transmission equipment on a wireless support structure, for the modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or existing base station, or any other request to construct or place transmission equipment that does not meet the definition of an eligible facilities request.

3. “*Authority*”, used as a noun, means a state, county, or city governing body, board, agency, office, or commission authorized by law to make legislative, quasi-judicial, or administrative decisions relative to an application. “*Authority*” does not include state courts having jurisdiction over land use, planning, or zoning decisions made by an authority, the utilities division of the department of commerce, or entities that do not have zoning or permitting authority.

4. a. “*Base station*” means a structure or equipment at a fixed location that enables wireless communications licensed by the federal communications commission or authorized wireless communications between user equipment and a communications network.

b. “*Base station*” does not mean a tower or equipment associated with a tower.

c. “*Base station*” includes but is not limited to equipment associated with wireless communications services such as private, broadcast, and public safety services and unlicensed wireless services and fixed wireless services such as microwave backhaul.

d. “*Base station*” includes but is not limited to radio transceivers, antennas, coaxial or fiberoptic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

e. “*Base station*” includes a structure other than a tower that, at the time the relevant application is filed with the state or local government, supports or houses equipment described in [this subsection](#) that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

f. “*Base station*” does not include any structure that at the time the relevant application is filed with the state or local government does not support or house equipment described in [this subsection](#).

5. “*Collocation*” means the mounting or installation of additional transmission equipment on a support structure already in use for the purpose of transmitting or receiving radio frequency signals for communications purposes.

6. “*Electric utility*” means any owner or operator of electric transmission or distribution

facilities subject to the regulation and enforcement activities of the Iowa utilities board relating to safety standards.

7. “*Eligible facilities request*” means a request for modification of an existing tower or base station that does not substantially change the physical dimensions of the tower or base station and involves collocation of new transmission equipment, the removal of transmission equipment, or the replacement of transmission equipment.

8. “*Existing tower*” or “*existing base station*” means a tower or base station that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process. “*Existing tower*” includes a tower that was not reviewed and approved because it was not in a zoned area when it was built and lawfully constructed.

9. “*Initial placement or installation*” means the first time transmission equipment is placed or installed on a wireless support structure.

10. a. “*Site*”, in relation to a tower that is not in the public right-of-way, means the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

b. “*Site*”, in relation to support structures other than towers, means an area in proximity to the structure and to other transmission equipment already deployed on the ground.

11. “*Substantial change*” means a change in the existing support structure which results in one or more of the following:

a. (1) Increase in the height of a tower, other than a tower in the public right-of-way, by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater.

(2) Increase in the height of existing support structures, other than a tower in subparagraph (1), by more than ten percent or more than ten feet, whichever is greater.

(3) Height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings’ rooftops. Otherwise, height shall be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act, Pub. L. No. 112-96, Tit. VI.

b. (1) Addition of an appurtenance to the body of the tower, other than a tower in the public right-of-way, that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.

(2) Addition of an appurtenance to an existing support structure, other than a tower under subparagraph (1), that would protrude from the edge of the structure by more than six feet.

c. (1) Installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.

(2) Installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the tower in the public right-of-way or base station.

(3) Installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with a tower in the public right-of-way or base station.

d. Excavation or deployment outside the current site.

e. Defeat of concealment elements of the existing support structure.

f. Noncompliance with conditions associated with the siting approval of the construction or modification of the existing support structure or base station equipment, except if the change is noncompliant only in a manner that does not exceed the thresholds identified in paragraphs “a” through “d”.

12. “*Tower*” means a structure built for the sole or primary purpose of supporting an antenna and the associated facilities authorized or licensed by the federal communications commission. “*Tower*” includes structures constructed for wireless communications services, including but not limited to private, broadcast, and public safety services and unlicensed wireless services and fixed wireless services, such as microwave backhaul, and the associated site.

13. “*Transmission equipment*” means equipment that facilitates transmission for a wireless communications service licensed or authorized by the federal communications

commission, including but not limited to radio transceivers, antennas, coaxial or fiberoptic cable, and regular and backup power supply. “*Transmission equipment*” includes equipment associated with wireless communications services, including but not limited to private, broadcast, and public safety services, such as wireless local area network services and services utilizing a set of specifications developed by the institute of electrical and electronics engineers for interface between a wireless client and a base station or between two wireless clients, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul.

14. “*Utility pole*” means a structure owned or operated by a public utility, municipality, or electric utility that is designed specifically for and used to carry lines, cable, or wires for telephone, cable television, or electricity, or to provide lighting.

15. “*Wireless support structure*” means a structure that exists at the time an application is submitted and is capable of supporting the attachment or installation of transmission equipment in compliance with applicable codes, including but not limited to water towers, buildings, and other structures, whether within or outside the public right-of-way. “*Wireless support structure*” does not include a tower or existing base station.

**2015 Acts, ch 120, §2, 10**

Section applies to applications submitted on or after July 1, 2015; 2015 Acts, ch 120, §10  
NEW section

**8C.3 Uniform rules and limitations — applications.**

In order to ensure uniformity across this state with respect to the consideration of every application, and notwithstanding any other provision to the contrary, an authority shall not do any of the following:

1. Require an applicant to submit information about, or evaluate an applicant’s business decisions with respect to, the applicant’s designed service, customer demand for service, or quality of the applicant’s service to or from a particular area or site, but may require propagation maps solely for the purpose of identifying the location of the coverage or capacity gap or need for applications for new towers in an area zoned residential.

2. a. Evaluate an application based on the availability of other potential locations for the placement or construction of a tower or transmission equipment.

b. Require the applicant to establish other options for collocation instead of the construction of a new tower or modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or existing base station.

c. Notwithstanding paragraph “b”, an authority shall require an applicant applying for the construction of a new tower to provide an explanation regarding the reason for choosing the proposed location and the reason the applicant did not choose collocation. The explanation shall include a sworn statement from an individual who has responsibility over placement of the tower attesting that collocation within the area determined by the applicant to meet the applicant’s radio frequency engineering requirements for the placement of a site would not result in the same mobile service functionality, coverage, and capacity, is technically infeasible, or is economically burdensome to the applicant.

3. Dictate the type of transmission equipment or technology to be used by the applicant or discriminate between different types of infrastructure or technology.

4. a. Require the removal of existing towers, base stations, or transmission equipment, wherever located, as a condition to approval of an application.

b. Notwithstanding paragraph “a”, the authority may adopt reasonable rules regarding removal of abandoned towers or transmission equipment.

5. Impose environmental testing, sampling, or monitoring requirements, or other compliance measures, for radio frequency emissions from transmission equipment that are categorically excluded under the federal communications commission’s rules for radio frequency emissions pursuant to 47 C.F.R. §1.1307(b)(1).

6. Establish or enforce regulations or procedures for radio frequency signal strength or the adequacy of service quality.

7. Reject an application, in whole or in part, based on perceived or alleged environmental effects of radio frequency emissions, as provided in 47 U.S.C. §332(c)(7)(B)(iv).

8. Prohibit the placement of emergency power systems that comply with federal and state environmental requirements.

9. Charge an application fee, consulting fee, or other fee associated with the submission, review, processing, or approval of an application, unless the fee charged is in compliance with [this section](#). Fees imposed by an authority or by a third-party entity providing review or technical consultation to the authority shall be based on actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. In no case shall total charges and fees exceed five hundred dollars for an eligible facilities request or three thousand dollars for an application for a new tower, for the initial placement or installation of transmission equipment on a wireless support structure, for a modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or base station, or any other application to construct or place transmission equipment that does not constitute an eligible facilities request. An authority or any third-party entity shall not include within its charges any travel expenses incurred in the review of an application for more than one trip to the authority's jurisdiction, and an applicant shall not be required to pay or reimburse an authority for consultant or other third-party fees based on a contingency-based or result-based arrangement.

10. Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other type of financial surety, to ensure that abandoned or unused towers or transmission equipment can be removed, unless requirements are competitively neutral, nondiscriminatory, reasonable in amount, and commensurate with the historical record for local facilities and structures that are abandoned.

11. Condition the approval of an application on the applicant's agreement to provide space on or near the tower, base station, or wireless support structure for authority or local governmental or nongovernmental services at less than the market rate for such space or to provide other services via the structure or facilities at less than the market rate for such services.

12. Limit the duration of the approval of an application, except that construction of the approved structure or facilities shall be commenced within two years of final approval, including the disposition of any appeals, and diligently pursued to completion.

13. Discriminate on the basis of the ownership, including ownership by the authority, of any property, structure, or tower when promulgating rules or procedures for siting wireless facilities or for evaluating applications.

[2015 Acts, ch 120, §3, 10](#)

Referred to in [§8C.4](#), [§8C.5](#)

Section applies to applications submitted on or after July 1, 2015; 2015 Acts, ch 120, §10

NEW section

#### **8C.4 Uniform rules — new tower applications.**

1. An authority may exercise zoning, land use, planning, and permitting authority within the authority's territorial boundaries with regard to the siting of new towers, subject to the provisions of [this chapter](#) and federal law.

2. An applicant that proposes to construct a new tower within the jurisdiction of an authority that has adopted planning and zoning regulations shall submit the necessary copies and attachments of the application to the appropriate authority and comply with applicable local ordinances concerning land use and the appropriate permitting processes.

3. All records, documents, and electronic data in the possession or custody of authority personnel are subject to [chapter 22](#). Disclosure of such records shall be consistent with applicable state law.

4. An authority, within one hundred fifty calendar days of receiving an application to construct a new tower, unless another date is specified in a written agreement between the authority and the applicant, shall comply with the following provisions:

a. Review the application for conformity with applicable local zoning regulations, building permit requirements, and consistency with [this chapter](#). An application is deemed to be complete unless the authority notifies the applicant in writing, within thirty calendar days of submission of the application, specifying the deficiencies in the application which, if cured, would make the application complete. The authority's timeframe to review the

application is tolled beginning the date the notice is sent. The authority's timeframe of one hundred fifty days for review of the application begins running again when the applicant cures the specified deficiencies. Following the applicant's supplemental submission, the authority has ten days to notify the applicant that the supplemental submission did not provide the information identified in the original notice that specified deficiencies in the application. The authority's timeframe of one hundred fifty days to review the application is tolled in the case of second or subsequent notices in conformance with this paragraph. The authority shall not include deficiencies in a second or subsequent notice that were not delineated in the original notice. The authority's timeframe for review does not toll if the authority requests information regarding any of the considerations an authority may not consider as described in [section 8C.3](#).

b. Make its final decision to approve or disapprove the application.

c. Advise the applicant in writing of its final decision.

5. If the authority fails to act on an application to construct a new tower within the timeframe for review specified under [subsection 4](#), the application shall be deemed approved.

6. A party aggrieved by the final action of an authority, either by its affirmative disapproval of an application under the provisions of [this section](#) or by its inaction, may bring an action for review in any court of competent jurisdiction.

[2015 Acts, ch 120, §4, 10](#)

Section applies to applications submitted on or after July 1, 2015; 2015 Acts, ch 120, §10  
NEW section

### **8C.5 Uniform rules for certain changes.**

1. An authority may exercise zoning, land use, planning, and permitting authority within the authority's territorial boundaries with regard to an application for initial placement or installation of transmission equipment on wireless support structures, for modification of an existing tower or existing base station that constitutes a substantial change, or for a request for construction or placement of transmission equipment that does not constitute an eligible facilities request, subject to the provisions of [this chapter](#) and federal law.

2. An applicant that proposes an initial placement or installation of transmission equipment on wireless support structures, a modification of an existing tower or existing base station that constitutes a substantial change, or a request for construction or placement of transmission equipment that does not constitute an eligible facilities request, within the jurisdiction of an authority that has adopted planning and zoning ordinances, rules, or regulations shall submit the necessary copies and attachments of the application to the authority and comply with such applicable local ordinances, rules, or regulations concerning land use and zoning and the appropriate local permitting processes.

3. All records, including but not limited to documents and electronic data, in the possession or custody of authority personnel are subject to [chapter 22](#). Disclosure of such records shall be consistent with applicable state law.

4. An authority, within ninety calendar days of receiving an application pursuant to [subsection 2](#), unless another date is specified in a written agreement between the authority and the applicant, shall comply with the following provisions:

a. Review the application for conformity with applicable local zoning ordinances, rules, or regulations, building permit requirements, and consistency with [this chapter](#). An application is deemed to be complete unless the authority notifies the applicant in writing, within thirty calendar days of submission of the application, specifying the deficiencies in the application which, if cured, would make the application complete. The authority's timeframe for review is tolled beginning the date the notice is sent. The authority's ninety-day timeframe for review of the application begins running again when the applicant cures the specified deficiencies. Following the applicant's supplemental submission, the authority has ten days to notify the applicant that the supplemental submission did not provide the information identified in the original notice that specified deficiencies. The authority's ninety-day timeframe to review the application is tolled in the case of second or subsequent notices in conformance with this paragraph. The authority shall not include deficiencies in a second or subsequent notice that were not delineated in the original notice. The authority's ninety-day timeframe for review

does not toll if the authority requests information regarding any of the considerations an authority may not consider as described in [section 8C.3](#).

- b. Make its final decision to approve or disapprove the application.
- c. Advise the applicant in writing of its final decision.

5. If the authority fails to act on an application for an initial placement or installation of transmission equipment on wireless support structures, for a modification of an existing tower or existing base station that constitutes a substantial change, or for a request for construction or placement of transmission equipment that does not constitute an eligible facilities request within the review period specified under [subsection 4](#), the application shall be deemed approved.

6. A party aggrieved by the final action of an authority, either by its affirmative disapproval of an application under the provisions of [this section](#) or by its inaction, may bring an action for review in any court of competent jurisdiction.

**2015 Acts, ch 120, §5, 10**

Section applies to applications submitted on or after July 1, 2015; 2015 Acts, ch 120, §10  
NEW section

**8C.6 Use of public lands for towers and transmission equipment.**

1. In accordance with other applicable laws, when entering into a lease with an applicant for the applicant's use of public lands, an authority shall offer the market rate value for use of that land. The term of the lease shall be for at least twenty years, but all or a portion of the land may be subject to release for public purposes after fifteen years.

2. a. If the authority and the applicant cannot agree on the market rate for lease of the public land and cannot agree on the process to derive the market rate, the appraisals of a three-person panel of appraisers shall determine the market rate. Each party will appoint one appraiser and the two appointed appraisers shall select a third appraiser. Each appraiser shall independently appraise the appropriate market rate for lease of the land. The market rate shall be set at the median value between the highest and lowest market rates determined by the three independent appraisers. However, if the median between the appraisals of the appraisers appointed by each party is greater than or less than ten percent of the appraisal of the appraiser selected by the two appraisers, then the appraisal of the appraiser selected by the two appraisers shall determine the rate for the lease. Each appraiser shall send a copy of the appraisal to the authority and the applicant. The authority shall use the appraisal process under this paragraph to determine the lease rate for purposes of [this subsection](#).

b. An authority shall approve or reject the lease rate as determined by the appraisal process pursuant to paragraph "a" within fifteen days following completion and receipt of the appraisals obtained pursuant to paragraph "a". The authority's failure to reject the lease rate as determined by the appraisal process within fifteen days constitutes approval of the lease rate determined pursuant to paragraph "a" as the market rate value for the use of the land for purposes of the lease between the authority and the applicant.

c. The authority and applicant shall conclude the appraisal process within one hundred fifty calendar days from the date the applicant first offered a proposed lease rate to the authority.

d. If using the three-person panel, each party shall bear the cost of its own appointed appraiser and equally share the cost of the third appraiser.

**2015 Acts, ch 120, §6, 10**

Section applies to applications submitted on or after July 1, 2015; 2015 Acts, ch 120, §10  
NEW section

**8C.7 Utility poles.**

Notwithstanding any provision to the contrary, an authority shall not mandate, require, or regulate the installation, location, or use of transmission equipment on a utility pole.

**2015 Acts, ch 120, §7, 10**

Section applies to applications submitted on or after July 1, 2015; 2015 Acts, ch 120, §10  
NEW section

**8C.8 Application and construction.**

[This chapter](#) shall not be construed as:

1. Prohibiting an airport, aviation authority, or municipality from administering and enforcing airport zoning pursuant to the provisions of [chapter 329](#) for the protection of navigable airspace.

2. Infringing upon the jurisdiction of a commission, as defined in [section 303.20](#), to approve or deny applications for proposed alterations to exterior features within an area designated as an area of historical significance.

3. Infringing upon the jurisdiction of a city or county, or any other entity authorized by statute, to approve or deny applications for proposed alterations to exterior features of designated local historic landmarks.

[2015 Acts, ch 120, §8, 10](#)

Section applies to applications submitted on or after July 1, 2015; 2015 Acts, ch 120, §10  
NEW section

### **8C.9 Repeal.**

[This chapter](#) is repealed July 1, 2020.

[2015 Acts, ch 120, §9, 10](#)

NEW section